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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 RONALD CLAUDE KETTELS,
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11 Petitioner,
12 v.
13 UNITED STATES OF AMERICA,
14 Respondent.

Case No. C16-891RSL

ORDER DENYING MOTION TO
VACATE, SET ASIDE, OR
CORRECT SENTENCE UNDER
28 U.S.C. § 2255

15 This matter comes before the Court on petitioner Ronald Claude Kettels' motion under
16 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. Dkts. ## 1, 6. The Court has
17 considered the parties' memoranda, the exhibits, and the remainder of the record.¹ For the
18 reasons set forth below, the motion is DENIED.

19 **I. BACKGROUND**

20 On March 27, 2013, a jury convicted petitioner of one count of conspiracy to commit
21 bank robbery (in violation of 18 U.S.C. § 371), three counts of armed bank robbery (18 U.S.C.
22 §§ 2113(a) and (d)), and three counts of use of a firearm during and in relation to a crime of
23 violence (18 U.S.C. § 924(c)(1)(A)(ii)). Case No. CR11-383RSL, Dkt. # 149. The Court
24 sentenced petitioner to 840 months' imprisonment, including a 684-month mandatory
25 consecutive sentence for use of a firearm during and in relation to a crime of violence. Id. at
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28 ¹ In addition to his motion, petitioner himself requested to supplement his filings with additional
authority. Dkt. # 14. That request is GRANTED, and the Court has considered the additional filing.

1 Dkt. # 165. Petitioner’s conviction and sentence were affirmed on appeal. See United States v.
2 Kettels, 586 F. App’x 304 (9th Cir. 2014).

3 On June 13, 2016, petitioner filed a pro se motion under 28 U.S.C. § 2255. Petitioner
4 argued that under the Supreme Court’s decision in United States v. Johnson, 135 S. Ct. 2551
5 (2015), armed bank robbery is not a “crime of violence” for purposes of § 924(c). The Court
6 assigned counsel, and petitioner filed an amended § 2255 motion. The Court then stayed
7 resolution of petitioner’s motions pending the Ninth Circuit’s decision in United States v.
8 Watson, 881 F.3d 782 (9th Cir. 2018) (per curiam), which considered the same issues petitioner
9 raises.

10 II. DISCUSSION

11 Section 924(c) imposes a mandatory consecutive term of imprisonment for using or
12 carrying a firearm “during and in relation to a crime of violence.” 18 U.S.C. § 924(c)(1)(A). The
13 statute provides two definitions of a crime of violence. Under § 924(c)’s so-called “force”
14 clause, a crime of violence is a felony that “has as an element the use, attempted use, or
15 threatened use of physical force against the person or property of another.” Id. § 924(c)(3)(A).
16 Under § 924(c)’s “residual” clause, a crime of violence is a felony “that by its nature, involves a
17 substantial risk that physical force against the person or property of another may be used in the
18 course of committing the offense.” Id. § 924(c)(3)(B).

19 Here, petitioner argues that armed bank robbery does not satisfy either definition of a
20 crime of violence. He first contends that the residual clause is unconstitutionally vague under
21 Johnson, which invalidated a similar clause in the Armed Career Criminal Act, id.
22 § 924(e)(2)(B). Accordingly, petitioner argues, the residual clause cannot support his conviction
23 and sentence under § 924(c). Additionally, petitioner maintains that armed bank robbery does
24 not constitute a crime of violence under the force clause, because it does not categorically entail
25 the use or threatened use of physical force.

26 The Ninth Circuit’s decision in Watson forecloses petitioner’s arguments. Like petitioner,
27 the Watson petitioners argued that their convictions for using a firearm during a crime of
28 violence were unlawful because the predicate offense—armed bank robbery (18 U.S.C.

1 § 2113)—did not qualify as a crime of violence for purposes of § 924(c). The court squarely
2 rejected that argument, without reaching the constitutionality of the residual clause. Even the
3 least violent form of bank robbery—bank robbery by intimidation—“requires at least an implicit
4 threat to use the type of violent physical force” necessary to satisfy the force clause. Watson,
5 881 F.3d at 785 (quoting United States v. Gutierrez, 876 F.3d 1254, 1257 (9th Cir. 2017) (per
6 curiam)). Bank robbery by intimidation also meets the mens rea requirement for a crime of
7 violence. Id. Therefore, bank robbery under § 2113(a) invariably qualifies as a crime of violence
8 for purposes of § 924(c). Because an armed bank robbery conviction under §§ 2113(a) and (d)
9 “cannot be based on conduct that involves less force than an unarmed bank robbery requires,”
10 armed bank robbery also constitutes a crime of violence under § 924(c). Id. at 786.

11 Watson resolves petitioner’s motions. Petitioner’s conviction for armed bank robbery is a
12 proper basis for his conviction and sentence for using or carrying a firearm during and in
13 relation to a crime of violence.

14 III. CONCLUSION

15 The Court finds that petitioner has not demonstrated that his sentence should be vacated,
16 set aside, or corrected. His petition is accordingly DENIED. The Court further finds that no
17 evidentiary hearing is required because the record conclusively shows petitioner is not entitled
18 to relief. See 28 U.S.C. § 2255(b). Likewise, petitioner has not substantially shown a denial of
19 constitutional rights, and the Court concludes no certificate of appealability should issue. See id.
20 § 2253(c)(2).

21 For the foregoing reasons, the Court ORDERS:

22 (1) Petitioner’s motion, Dkt. ## 1, 6, is hereby DENIED; and

23 (2) Petitioner is DENIED a certificate of appealability under 28 U.S.C. § 2253.

24 DATED this 19th day of April, 2018.

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27 Robert S. Lasnik

28 United States District Judge